

Order 2003-2-7
Served: February 11, 2003



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Issued by the Department of Transportation
on the 6th day of February, 2003

Essential Air Service at

LANCASTER, PA

under 49 U.S.C. 41731 *et seq.*

Docket OST-2002-14146

ORDER ALLOWING SUSPENSION OF SERVICE

Summary

By this order, the Department allows Colgan Air, Inc., d/b/a US Air Express (Colgan), to suspend all scheduled air service at Lancaster, Pennsylvania, at the end of its 90-day notice period, but denies the carrier's request to suspend service before the end of the 90-day notice period.

Background

On December 23, 2002, Colgan filed a 90-day notice of its intent to suspend all scheduled air service at Lancaster and, further, requested that it be permitted to suspend such service on less than 90-days' notice, on or after January 20, 2003. Colgan is the only carrier serving Lancaster and currently provides three weekday and two weekend nonstop round trips between Lancaster and Pittsburgh with 19-seat Beech 1900 aircraft.

On January 10, 2003, the Lancaster Airport Authority (the Authority) filed an objection to Colgan's termination of service at the community and also to the carrier's request that it be permitted to suspend service on less than 90-days' notice. In its Objection, the Authority states that maintaining scheduled air service in Lancaster is of critical importance to the entire community and, furthermore, to allow Colgan to terminate service prior to the end of the 90-day notice period would not allow the Authority sufficient time to find a

replacement carrier and would be seriously detrimental to its efforts to continue to provide continuous air service at the Lancaster airport.

Under Public Law 106-69, the Department is prohibited from paying subsidy under the Essential Air Service program for service at any community that is within 70 miles of a medium or large hub. Public Law 106-181, however, subsequently gave the Secretary the discretion whether to pay subsidy for service at certain communities within the 70-mile limit. In Orders 2002-3-7 and 2002-4-24, the Department fully explained its decision declining to subsidize EAS service at Lancaster.

Decision

We will allow Colgan to suspend its service to Lancaster at the end of the 90-day notice period. Based on our earlier findings, Lancaster is not eligible for subsidy; thus, we cannot require Colgan to maintain service at the community. The only question, therefore, is whether to allow Colgan to suspend service early. As a general matter, we normally require carriers to maintain service at eligible communities until the end of the notice period, unless the community does not object to such termination. In this case, the community of Lancaster has submitted such an objection. Therefore, we will not allow Colgan to suspend its service before the end of the 90-day period. Colgan filed its notice on December 23, 2002. Day-one of the notice period is the next day, December 24, 2002, and the ninetieth day is March 23, 2003. We will require Colgan to provide service through March 23, 2003.

Before Colgan suspends service at Lancaster, we expect it to contact all passengers who hold reservations for flights that will be suspended, to inform them of the suspension and to assist them in arranging alternate transportation.

This order is issued under authority delegated in 49 CFR 1.56a(f).

ACCORDINGLY,

1. We take no action to prohibit Colgan Air, Inc., d/b/a US Air Express, from suspending its scheduled air service at Lancaster, Pennsylvania, at the end of the 90-day notice period;
2. We require Colgan Air, Inc., d/b/a US Air Express, to provide at least two nonstop round trips each weekday and two each weekend period to Pittsburgh with 19-seat Beech 1900 aircraft, through March 23, 2003;
3. We deny Colgan Air's request for an exemption from the requirements of 49 U.S.C. 41734(a) to allow it to suspend service at Lancaster, Pennsylvania, on less than 90-days' notice;
4. This docket will remain open until further order of the Department; and

5. We will serve a copy of this order on the Mayor of Lancaster, the Lancaster Airport Authority, the Governor of Pennsylvania, the Pennsylvania Department of Transportation, and Colgan Air.

By:

READ C. VAN DE WATER
Assistant Secretary for Aviation
and International Affairs

(SEAL)

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